

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant:	Graeme John PROUDLER et al.)	Examiner: Thanhnga B. TRUONG
)	
)	Art Unit: 2135
Serial No.:	10/080,476)	
)	Our Ref: B-4515 619561-7
Filed:	February 22, 2002)	30007644-2 US
)	
For:	"INFORMATION SYSTEM")	Date: June 3, 2008
)	
)	Re: <i>Appeal to the Board of Appeals</i>

BRIEF ON APPEAL

Commissioner for Patents

Sir:

This is an appeal from the non-final rejection dated January 24, 2008, for the above identified patent application. Appellants submit that this Appeal Brief is being timely filed because the Notice of Appeal was filed on April 24, 2008. The amount of \$500.00 for the fee set forth in 37 C.F.R. 1.17(c) for submitting this Brief was paid previously in connection with the Appeal filed in this case on June 7, 2006. Please deduct the amount of \$10.00 for the difference between the previously paid amount and the current fee set forth in 37 C.F.R. 1.17(c) from deposit account no. 08-2025.

REAL PARTY IN INTEREST

The real party in interest to the present application is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences related to the present application.

STATUS OF CLAIMS

Claims 1-19 are pending in the application. Claims 11-19 stand rejected, are the subject of this Appeal, and are reproduced in the accompanying appendix. Claims 1-10 have been withdrawn from consideration by the Examiner.

STATUS OF AMENDMENTS

No Amendment After Final Rejection has been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

The invention claimed in claim 11 is directed to an information system (800) comprising an information access point relating to at least one pre-determined geographical area (p. 20 ll. 19-22), said information access point including apparatus for retrieving information relating to trusted computing platforms (802a-802n) located within said pre-determined geographical area (p. 17 ll. 19-27), said information system being arranged to provide said information to a user upon request (p. 19 ll. 9-21; Fig. 6).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Issue 1: Whether claims 11-19 are patentable under 35 U.S.C. 103(a) over U.S. Pat. No. 6,716,101 to Meadows et al. (hereinafter "Meadows") in view of U.S. Pat. No. 6,654,800 to Rieger III (hereinafter "Rieger").

ARGUMENT

Issue 1: Whether claims 11-19 are patentable under 35 U.S.C. 103(a) over U.S. Pat. No. 6,716,101 to Meadows in view of U.S. Pat. No. 6,654,800 to Rieger.

In section 5 of the Office Action of January 24, the Examiner once again rejects claims 11-19 under 35 U.S.C. 103(a) as being unpatentable over Meadows in view of newly-cited

Rieger. The Examiner insists that Meadows teaches all limitations of claim 11 at col. 2 ll. 3-28 and col. 5 ll. 13-29 with the exception of the capability of communicating with trusted platforms, finds that Rieger teaches this limitation at col. 5 l. 60 - col. 6 l. 16, and concludes that the skilled person would have found it obvious to modify the invention of Meadows with the teaching of Rieger for monitoring geographical location and movement and for providing the location information to an authorized user through the world wide web. Appellants respectfully disagree.

As noted in Appellants' previous reply, Meadows describes a system for tracking the location of known cell phones by use of a cell phone network matched with a geographical database. The cell phone network tracks the movement of a cell phone through registration signals transmitted over a specific channel and supplies information to a coordinator system that determines the actual geographical location of the cell phone which is in turn proved to the continuously updated geographical database. The Examiner's acknowledgment that "Meadows is silent on the capability of communicating with trusted platforms" is a quite an oversimplification of the shortcomings of Meadows with respect to claim 11. Given that the Examiner has once again failed to draw any correlation between the claim terms and specific elements in Meadows, Appellants can only suppose that the Examiner equates Meadows' "geographical location coordinator system" to the presently claimed information access point relating to at least one pre-determined geographical area. What is immediately apparent is that Meadows' information access point has nothing akin to the claimed "apparatus for retrieving information relating to trusted computing platforms located within said pre-determined geographical area" given that, according to the Examiner, the coordinator system is the trusted platform of Meadows.

The Examiner's contention that combining with Rieger endows Meadows with "the capability of communicating with trusted platforms" does nothing to cure the above shortcomings, as enabling the geographical location coordinator system of Meadows to communicate with a trusted computing platform makes absolutely no sense within a system completely bereft of such trusted computing platforms as Meadows'.

The only other possible interpretation (i.e. guess) of the Examiner's rejection is that she views the cellular telephones of Meadows as being trusted platforms. If so, the Examiner's read of Meadows is unreasonably overbroad. It is well settled law that claims are read in light of the

specification, and thus the term “trusted computing platform” recited in the present claims and as read in light of the specification (pages 10-16 of the application in particular) clearly refers to computing devices that include, at the very least, *a trusted component* as described therein.

Appellants thus ask - what is the trusted computing platform in Meadows with which the geographical location coordinator system would communicate? Regardless of the Examiner’s answer, Appellants have shown above that this answer cannot be correct.

Appellants further traverse the Examiner’s allegation that Rieger teaches anything related to communicating with trusted computing platforms. The very portion of Rieger that is cited by the Examiner belies the proposition it is meant to support, as this portion discloses simply the *use of passwords* to protect Internet postings. It is beyond doubt that the Examiner is now equating password protection with trusted computing platform, a position which - as discussed above - is completely at odds with the definition of trusted computing platform as clearly set forth in the specification. Furthermore, even if ignoring the specification as per the Examiner, the proposition that a computing platform achieves trusted status solely because it allows a user to password protect a posting accessible through the platform (the inescapable conclusion to the Examiner’s explanation) is simply untenable.

Appellants thus respectfully posit to the Board that the combination of art asserted by the Examiner does not in fact disclose the limitations recited by the present claims and for this reason alone the claims should be passed to issue.

Appellants further note that this combination of art as asserted by the Examiner is in fact devoid of any reason. Meadows provides a system that automatically tracks the geographical location of cell phones. The Examiner’s contention that a skilled person could modify this system “with the teaching of Rieger for providing the location information to an authorized user through the world wide web” leaves entirely too much to the reader’s imagination. How, for instance, is the skilled person to modify Meadows with the teaching of Rieger? Which specific aspect(s) of Rieger does the Examiner view as being easily incorporated into Meadows’ system? In Meadows a cellular system tracks cell phones via their registration signals to their local cell phone towers/transceivers and maps them onto corresponding geographical coordinates. In Rieger individuals log on to an Internet web site and enter information about a particular location

in the world. How could one skilled in the art possibly combine these two systems? The Examiner expends not one word in explaining herself, and Appellants simply cannot fathom a system combining the two references, much less one combining the two references in a manner that offers the functionality of the presently claimed system.

In view of the above, Appellants further respectfully submit that the combination of art asserted by the Examiner is not only not anticipatory of the presently claimed invention but further also falls short of the requirements for a proper § 103 rejection, even in light of the new *KSR v. Teleflex* Examination Guidelines of October 10, 2007. These Guidelines provide that “When making an obviousness rejection, Office personnel must therefore ensure that the written record includes findings of fact concerning the state of the art and the teachings of the references applied. In certain circumstances, it may also be important to include explicit findings as to how a person of ordinary skill would have understood prior art teachings, or what a person of ordinary skill would have known or could have done. Factual findings made by Office personnel are the necessary underpinnings to establish obviousness.” There is an utter dearth of such factual findings in the present Action, rather only a single conclusory statement as to what the skilled person, according to the Examiner’s unexplained and inexplicable opinion, would have done.

The Guidelines further admonish that “Although a rejection need not be based on a teaching or suggestion to combine, a preferred search will be directed to finding references that provide such a teaching or suggestion if they exist.” The Examiner has not even acknowledged this pronouncement, much less provided a reason for the lack of such teaching or suggestion in the references.

The Guidelines further set forth that “Any obviousness rejection should include, either explicitly or implicitly in view of the prior art applied, an indication of the level of ordinary skill.” Appellants have combed through the Examiner’s rejection but have failed to find any such indication, explicit or implicit.

Perhaps the most instructive portion of the Guidelines is the clear statement that “The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis

supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn* stated that “ ‘[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.’ ” As already pointed out, the Examiner’s entire rejection consists of nothing but one conclusory statement regarding what the undefined skilled person would - in the Examiner’s sole opinion - have found obvious.

In view of all of the above, Appellants respectfully submit that the combination of Meadows and Rieger is improper and also does not in fact anticipate claim 11. Claims 12-19 depend from claim 11. “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, in light of the above discussion of claim 11, Appellants further submit that claims 12-19 are also novel and nonobvious over the art of record. Appellants thus respectfully submit that claims 11-19 are novel and nonobvious and request the Board to overturn the Examiner’s rejection of the claims.

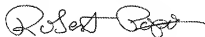
CONCLUSION

For the many reasons advanced above, Appellants respectfully contend that each claim is patentable and reversal of all rejections and allowance of the case is respectfully solicited.

I hereby certify that this document is being transmitted to the
Patent and Trademark Office via electronic filing.

June 3, 2008
(Date of Transmission)

Respectfully submitted,



Robert Popa
Attorney for Appellants
Reg. No. 43,010
LADAS & PARRY
5670 Wilshire Boulevard, Suite 2100
Los Angeles, California 90036
(323) 934-2300 voice
(323) 934-0202 facsimile
rpopa@la.ladas.com

Attachments

Claims

11. An information system comprising an information access point relating to at least one pre-determined geographical area, said information access point including apparatus for retrieving information relating to trusted computing platforms located within said pre-determined geographical area, said information system being arranged to provide said information to a user upon request.

12. A system according to claim 11, wherein said information system is arranged to provide as said information only details and/or a list of public keys of genuine trusted computing platforms within said pre-determined geographical area.

13. A system according to claim 11, wherein said information access point comprises a trusted computing platform.

14. A system according to claim 11, comprising apparatus for communicating or interacting with a user's portable computing apparatus.

15. A system according to claim 14, wherein said apparatus for

communicating or interacting a user's portable computing apparatus is arranged to perform said communication or interaction by physical contact or directional wireless communication.

16. A system according to claim 11, incorporating or accompanied by a declaration concerning the trustworthiness of the system.

17. A system according to claim 16, wherein said declaration is capable of interpretation by a user without preprocessing by an information processing system.

18. A system according to claim 11, arranged to verify the identity of a user.

19. A system according to claim 11, arranged to enable a user to perform operations, either locally or remotely, upon the information provided thereby.

Evidence Appendix

There is no evidence submitted with the present Brief on Appeal.

Related Proceedings Appendix

There are no other appeals or interferences related to the present application.